

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

CHRISTOPHER S. CHAPMAN,
Plaintiff,

v.

S.D.N.Y. Case No.: 08-3255 (LAP)
Judge: Lorreta A. Preska

UNIVERSAL MOTOWN RECORDS GROUP, et al.
Defendants.

AMENDED COMPLAINT

COMES NOW Plaintiff, Christopher S. Chapman, by counsel, and provides this, his Amended Complaint against Defendant, Universal Motown Records Group, and in support thereof states as follows:

INTRODUCTION

1. This is an action in law and equity for copyright infringement under the Copyright Act of 1976, 17 U.S.C. §101 *et seq.*, and an action for conversion under Virginia common law. Defendant Universal Motown Records Group (“Universal Motown”) violated the Copyright Act of 1976 by infringing Plaintiff’s copyrights in a music sound recording owned by Plaintiff Christopher S. Chapman (“Chapman”) p/k/a “Face Dirty”, and entitled “Lean Back” thereby unfairly profiting from such use and damaging Plaintiff. Universal Motown’s actions constitute conversion under Virginia common law in that it wrongfully exercised authority over Chapman’s copyrighted property, depriving Chapman of his ownership rights.

JURISDICTION AND VENUE

2. This is an action for copyright infringement under the Copyright Act of 1976, 17 U.S.C. §101 *et seq.*, and an action for conversion under Virginia common law. This Court has

jurisdiction over the subject claims under 28 U.S.C. §1338(a) and pendant jurisdiction over the claim arising under state law pursuant to 28 U.S.C. §1338(b).

3. Pursuant to the Order and Opinion entered by the United States District Court, Eastern District of Virginia, Norfolk Division, on March 27, 2008, in the matter of Christopher S. Chapman v. Universal Motown Records Group, and Joseph Cartagena, p/k/a “Fat Joe” and “Terror Squad,” Civil Action No. 2:07cv62, the instant case, in its entirety, was transferred to the United States District Court for the Southern District of New York.

PARTIES

4. Plaintiff Chapman is an individual currently residing in the State of Georgia.
5. Defendant Universal Motown is an unincorporated division of UMG Recordings, Inc., having its principle place of business located in New York, New York.

FACTS COMMON TO ALL COUNTS

6. Plaintiff Chapman is a writer and performer of the rap/hip hop genre of music and a representative of Dirty Mouth Entertainment.
7. Chapman performs rap/hip hop music under the stage name of “Face Dirty.”
8. Based on current information and belief, the Universal Motown record label company is an unincorporated division of UMG Recordings, Inc., a wholly owned subsidiary of Vivendi S.A., and, in part, oversees various record labels, including but not limited to Motown, Universal, Blackground, and Cash Money.
9. On or around March of 2003, Chapman wrote and recorded a rap/hip hop musical composition entitled “Lean Back.” Plaintiff created choreographed dance steps to accompany the recorded “Lean Back” musical track.
10. The album project, later entitled “Now Hiring”, was completed by the end of July 2003.

11. Chapman filed a United States copyright registration application for his sound recordings and musical compositions. In connection with the application, Chapman deposited with the application a compact disc (CD) recording of the album “Now Hiring,” including “Lean Back”. *See* copy of the “Now Hiring” album, featuring “Lean Back” at Track 2, as deposited with the U.S. Copyright Office, attached herein as Exhibit A.
12. Chapman was awarded a copyright registration number SR0000344640 on December 22, 2003 for the “Now Hiring” music sound recording. As evidence of that federal registration, copies of the front page of the Certificate of Registration and Public Catalog listing of the noted work are attached herein as Exhibits B and C, respectively.
13. Beginning as early as March 2003, Plaintiff rendered live performances of the song “Lean Back” on numerous occasions throughout the Atlanta metropolitan area in Georgia, as well as throughout various other areas in the southeastern United States.
14. In early 2004, Plaintiff recorded and released a live video performance of “Lean Back” and of the accompanying choreographed dance steps.
15. In January 2004, Plaintiff sent a copy of his “Now Hiring” project, which includes the musical track “Lean Back” to Mr. Antone Barnes (“Barnes”) who, upon information and belief, worked at the time as an Artist & Repertoire (“A&R”) representative for Universal Motown.
16. Based on information and belief, Barnes had at that time a long-standing relationship with Joseph Cartagena, (“Cartagena”) p/k/a “Fat Joe” and “Terror Squad.”
17. During the spring of 2004, Plaintiff engaged in multiple conversations with Barnes regarding Universal Motown’s interest in overseeing the release and distribution of Plaintiff’s registered “Now Hiring” project, and specifically interest in the song “Lean Back.” During

the course of those discussions, Barnes told Chapman that Barnes had received, listed to, and still retained the album “Now Hiring” submitted to him by Chapman.

18. During Plaintiff’s last conversation with Universal Motown’s Antone Barnes in May of 2004 concerning release of the “Now Hiring” project, Barnes informed Chapman that despite initial interest in “Now Hiring”, Universal Motown did not intend to proceed with the project.
19. Barnes further advised Chapman that he “needed to re-think” promoting and selling the “Now Hiring” project, and more specifically, the “Lean Back” track, because rap/hip hop artist Cartagena and “Terror Squad” would soon release a track referred to by Barnes as a “summer banger” and suspiciously entitled “Lean Back.”
20. After discussions between Chapman and Universal Motown ceased, Universal Motown unlawfully retained the tangible object, namely a CD recording of the “Now Hiring” project that embodied Chapman’s copyrighted work.
21. In March 2004, Chapman learned of the existence of a newly recorded song, also entitled “Lean Back,” performed by rap/hip hop artist Cartagena and the rap/hip hop group “Terror Squad,” and of a videotaped performance of the song also performed by Cartagena and the group “Terror Squad”.
22. Universal Motown had in its possession the “Now Hiring” CD featuring the track “Lean Back” for at least four (4) full months prior to the creation and release of the single “Lean Back” as performed by Cartagena and the group “Terror Squad”.
23. Upon information and belief, during the period in which Barnes was directly involved in the discussions with Chapman, Barnes maintained close affiliation with Cartagena and had direct access to all materials related to Chapman’s copyrighted work.

24. Significant characteristics of “Lean Back” as recorded and videotaped by Cartagena and the group “Terror Squad”, namely, the lyrics of the hook and core expression, are strikingly similar to that of the “Now Hiring” track featured on Chapman’s “Now Hiring” project. Further, Universal Motown’s artists Cartagena and the group “Terror Squad” performed dance steps in their 2004 videotaped rendition of “Lean Back” that mimic the dance steps performed by Chapman in his 2003 performances for “Now Hiring.”
25. Despite the assertion that Universal Motown was not interested in pursuing “Now Hiring” and, more importantly, the “Lean Back” track, Universal Motown released the single “Lean Back” as performed by Cartagena and the group “Terror Squad”, that directly copies, in significant part and without authorization, the original work of Chapman’s “Lean Back.”
26. All acts of infringement of Chapman’s material by Universal Motown occurred after the effective date of the copyright registration for Chapman’s “Now Hiring” project.
27. Universal Motown impermissibly registered the work “Lean Back” by Cartagena in 2004.
28. Chapman and Universal Motown knew that compensation was expected if Universal Motown released Chapman’s “Now Hiring” work pursuant to ordinary custom in the industry.
29. Universal Motown continues to infringe Chapman’s copyrights, thereby unfairly profiting from such use and damaging Chapman.

COUNT I
COPYRIGHT INFRINGEMENT

30. Chapman repeats and re-alleges each and every allegation of paragraphs 1 through 30 as though fully set forth herein.
31. Universal Motown’s acts as alleged constitute copyright infringement in violation of the Copyright Act of 1976, 17 U.S.C. § 101 *et seq.*

32. Upon information and belief, by such wrongful acts, Universal Motown has and, unless restrained by the Court, will continue to cause serious irreparable injury and damage to Chapman.
33. Chapman has no adequate remedy at law, and has been damaged in an amount not less than Fifteen Million and 00/100 Dollars (\$15,000,000.00).

**COUNT II
CONVERSION**

34. Chapman repeats and re-alleges each and every allegation of paragraphs 1 through 34 as though fully set forth herein.
35. By and through the actions alleged above, Universal Motown unlawfully retained all tangible objects provided by Chapman during negotiations, namely the CD recording that comprised the creative embodiment of the “Now Hiring” work.
36. Universal Motown wrongfully exerted authority over and used Chapman’s registered material as embodied in the CD recording, whereby depriving Chapman of possession of his material and all other rights as owner of the material in violation of Virginia common law.
37. Universal Motown has not compensated Chapman, and Chapman has been damaged in an amount no less than Fifteen Million and 00/100 Dollars (\$15,000,000.00).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for an Order of the Court:

38. Granting a preliminary and permanent injunction restraining Universal Motown, its officers, directors, principals, agents, servants, employees, successors and assigns, and all individuals acting in concert or participation with it, from infringing Chapman’s copyrights;
39. Ordering the termination of Defendant’s copyright registration of “Lean Back” and the associated choreographed dance;

40. Directing Universal Motown to account to Chapman for any and all profits derived by Universal Motown from the infringed work;
41. Granting Plaintiff a monetary judgment against Universal Motown for Chapman's actual damages and any of Universal Motown's additional profits in an amount no less than Fifteen Million and 00/100 Dollars (\$15,000,000.00);
42. Granting Plaintiff punitive damages against Universal Motown due to its willful and malicious acts in an amount to be proven at trial;
43. Granting Plaintiff his reasonable attorneys' fees, costs, and disbursements incurred herein pursuant to 17 U.S.C. § 505 ("Remedies for infringement: Costs and attorney's fees"); and
44. Awarding Plaintiff such other and further relief as the Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiff requests a trial by jury.

CHRISTOPHER S. CHAPMAN

Of Counsel

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Admitted *Pro Hac Vice* in the
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Counsel to Plaintiff, Christopher S. Chapman

CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of July, 2008, the foregoing Amended Complaint was sent to Christine Lepera, Esq., Counsel for Defendant, via overnight Federal Express Mail and Email to:

Christine Lepera, Esq.
Mitchell Silberberg & Knupp LLP
12 East 49th Street, Tower 49
New York, New York 10017
ctl@msk.com
sml@msk.com

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Counsel to Plaintiff, Christopher S. Chapman

Exhibit A

Recorded CD copy of album entitled “Now Hiring” submitted by Federal Express courier service
as delivered on July 28, 2008.

Exhibit B

Copy of the front page of the Certificate of Copyright Registration for the album entitled "Now Hiring" (Registration No. SR0000344640).



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America



DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

1 TITLE OF THIS WORK ▼

"NOW HIRING"

PREVIOUS, ALTERNATIVE, OR CONTENTS TITLES (CIRCLE ONE) ▼

2 NAME OF AUTHOR ▼

a Christopher Sherman Chapman

Was this contribution to the work a "work made for hire"?

Yes
 No

AUTHOR'S NATIONALITY OR DOMICILE

Name or Country

OR, Citizen of United States
Domiciled in

DATES OF BIRTH AND DEATH

Year Born ▼ Year Died ▼

12-2-80

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? Yes No
Pseudonymous? Yes No

If the answer to either of these questions is "Yes," see detailed instructions.

NOTE

Under the law, if "author" of "work made for hire" is merely the player, not an employee or instructor. For any of this it that was done for "I" check "I" in the box. If not, give employer name for the work prepared) "author" of part, and a "I" for others to add a blank.

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼

NAME OF AUTHOR ▼

b Christopher Sherman Chapman

Was this contribution to the work a "work made for hire"?

Yes
 No

AUTHOR'S NATIONALITY OR DOMICILE

Name or Country

OR, Citizen of
Domiciled in

DATES OF BIRTH AND DEATH

Year Born ▼ Year Died ▼

12-2-80

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? Yes No
Pseudonymous? Yes No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼

NAME OF AUTHOR ▼

c Christopher Sherman Chapman

Was this contribution to the work a "work made for hire"?

Yes
 No

AUTHOR'S NATIONALITY OR DOMICILE

Name or Country

OR, Citizen of
Domiciled in

DATES OF BIRTH AND DEATH

Year Born ▼ Year Died ▼

12-2-80

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? Yes No
Pseudonymous? Yes No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼

3 YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED

a 2003

Year
This information must be given in all cases.

DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK

b Describe this information ONLY if this work has been published. Month 12
Year 03
United States of America Nation

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

*a Christopher Sherman Chapman
705 W 36th Norfolk, VA 23508
APT A*

TRANSFER If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

b

APPLICATION RECEIVED
DEC 22 2003

ONE DEPOSIT RECEIVED
DEC 22 2003

TWO DEPOSITS RECEIVED

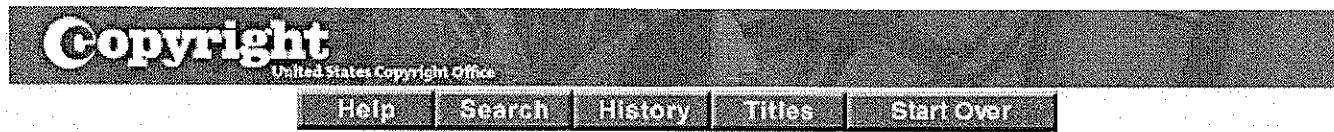
FUNDS RECEIVED

SEARCHED
INDEXED
MAILED

NOV 2003

EXHIBIT C

Copy of the Public Catalog Listing for the album entitled “Now Hiring” (Registration No. SR0000344640).



Public Catalog

Copyright Catalog (1978 to present)

Search Request: Left Anchored Title = now hiring

Search Results: Displaying 14 of 33 entries

[previous](#) [next](#)

[Labeled View](#)

Now hiring / Face Dirty.

Type of Work: Sound Recording and Music

Registration Number / Date: SR0000344640 / 2003-12-22

Title: Now hiring / Face Dirty.

Description: Compact disc.

Notes: Collection.

Copyright Claimant: © © Christopher Sherman Chapman, 1980-

Date of Creation: 2003

Date of Publication: 2003-12-11

Authorship on Application: words, music, recording: Christopher Sherman Chapman.

Names: Chapman, Christopher Sherman, 1980-
Face Dirty

[previous](#) [next](#)

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